

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, July 24, 2008

ADMINISTRATIVE AGENDA (Items 1-3)

1. Call to Order/Flag Salute

Chair Simonsen called the meeting to order at 5:40 p.m.

2. Introduction of New Commissioners

Chair Simonsen welcomed Lucia Becerra and Ken Trott to the Commission. Commissioner Becerra is from the Department of Boating and Waterways and replaced David Johnson. Commissioner Trott is from the Department of Food and Agriculture and replaced Steve Shaffer.

3. Roll Call

Present: Chair Simonsen; Commissioners Becerra, Cabaldon, Dawson, Ferguson, Kelly, McGowan, Nottoli, Ruhstaller, Tilghman, Trott, van Loben Sels, and Mark Wilson.

Absent: Commissioners Armor, Calone, Dresser, Johnston, Newton, Piepho, Reagan, and Daniel Wilson.

4. Adoption of Resolutions of Appreciation for Former Commissioners David Johnson and Steve Shaffer

Commissioner McGowan moved approval of the Resolutions of Appreciation; Commissioner Wilson seconded. The motion was approved unanimously.

5. Public Comment

John Bohl, Clarksburg stated that he was concerned about the amount of ammonia the City of Sacramento is discharging into the Sacramento River. He said the amount discharged will be tripled. He referenced a Sacramento Bee Article that stated *Ammonia from Sacramento Waste Could Hurt Delta Ecosystem*.

CONSENT AGENDA (Items 6-16)

Chair Simonsen moved Agenda Item 6 to the Regular Agenda.

Commissioner Kelly moved Agenda Item 7 to the Regular Agenda.

Commissioner Kelly moved approval of the remainder of the Consent Agenda; Commissioner Dawson seconded. The Consent Agenda was approved unanimously.

REGULAR AGENDA (Items 6, 7, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26)

6. Approve Minutes of the Commission Meeting of May 22, 2008.

Chair Simonsen asked that the minutes of May 22, 2008 be corrected to reflect that David Johnson, not Gayle Newton, seconded the motion on Agenda Item No. 17.

Commissioner Kelly asked that the minutes be corrected to reflect the proper spelling of Dave Gutierrez's name.

Commissioner Cabaldon moved approval of the minutes; Commissioner Kelly seconded. The minutes were approved unanimously.

7. Approve Resolution 06-08 to be Submitted with the Commission's Application for Grant Funds from the Solano County Fish and Wildlife Propagation Fund Grant Program for Delta Trail and Related Environmental Education.

Commissioner Kelly asked where the matching funds noted in the application would come from. Ms. Fiack responded that the funds would come from a grant from the Coastal Conservancy and a grant from CALTRANS. Commissioner Kelly moved approval of Agenda Item 7; Commissioner Cabaldon seconded. The motion was approved unanimously.

17. Welcome Members of the Governor-Appointed Delta Vision Blue Ribbon Task Force to Engage in Discussion Relative to the Delta Visioning Process.

Sunne Wright McPeak, Delta Vision Blue Ribbon Task Force member stated that she wanted to get the Commission's feedback on the draft strategic plan because she wanted to present the information to the Chair of the Task Force.

Ms. McPeak distributed a 12-point Framework of Principals and recommendations. She said that critical coupling of actions are essential for restoration of the Delta estuary. She said she could not make any guarantees on how things would turn out but she said she would never give up on the Delta and estuary, and that the State could do much better than it is doing. Ms. McPeak said the formula for restoring the Delta includes the restoration of the estuary and reliability on exports; conservation and construction of facilities; and storage and conveyance. She said the governance issue is secondary to what the State is trying to achieve.

Ms. McPeak said the job is daunting coupled with a tight timeframe. The Task Force is on the third staff draft of the strategic plan and is about to make a recommendation to the Governor on governance with adoption of the strategic plan in September or October 2008.

John Kirlin, Executive Director, Delta Vision said that the Task Force has two drafts of the Strategic Plan. He said the process will be imperfect, but the Task Force has done a lot of work to get people involved. He encouraged everyone to remain involved.

Commissioner McGowan said he was pleased with the responses to the Delta Vision. He asked if the process has been an open one, as there should be a fundamental approach identified. Ms. McPeak discussed the process with the CALFED approach and responded that she does not think it would be good for the State and/or feds to make all agencies one.

Ms. McPeak said that thinking is to have one agency for Delta governance. She said that the Commission is a building block of the governance structure and that information as to how that can be accomplished should be stated in the Commission's comments.

Commissioner McGowan commented that on the issue of conservancy, if the Commission continues to be a regulatory agency, it should not become a conservancy and it should not be directly linked to a conservancy. He further stated that the Commission does not speak for local government—only itself. He said he wanted conversation regarding implementation of habitat conservation, as there has been too much authority invested in the Commission which is a mistake.

Commissioner Cabaldon said the Delta Vision must look at the social ecology of the Delta because the issue is not with urbanization in the Primary Zone, but inappropriate urbanization. He said that very little can be urbanized in the Primary Zone.

Commissioner van Loben Sels commented that the Delta Citizens Municipal Advisory Council agrees that a system with local control with occasional appeals to the Commission works well and should not be changed. Additionally, with respect to a Delta Conservancy and the Commission, he disagrees with Supervisor McGowan that the Commission should not be turned into a conservancy. He said there should be two lines of communication between an in-Delta Conservancy and the Commission, as a Conservancy can do what the Commission cannot do alone and that is to allow dollars to flow from the legislature to the Delta.

Commissioner Wilson asked what were the goals of the Task Force and what should be the end product. Mr. Kirlin responded that since California has a problem with its water system, the goals of the Delta Vision were to develop a durable vision for sustainable management of the Delta. Ms. McPeak also responded that the Task Force has an obligation to have a transparent process and deliver a product to the Governor that can be accepted as law.

Commissioner Wilson commented that he felt in-Delta people were being thrown under the bus with the Delta Vision because they seem to be looked at as non-entities as far as being a co-equal. Ms. McPeak responded that all aspects of the Delta are appreciated.

Commissioner Wilson asked if there would be any environmental restoration maps. Mr. Kirlin responded that he did not know at this time and that any imperfections would be advanced, and if a map was released now it would be inflammatory

Commissioner van Loben Sels suggested that Delta as a Place be listed as a co-equal.

Ms. McPeak asked that along with governance, the Commission should look at levee issues and the need for a plan for immediate actions for investment in levees.

Chair Simonsen stated that he recognizes that Commissioners have a dual role, and while he guards his land use authority, he does understand there is a greater purpose for the State. Chair Simonsen asked if there has been a call by the Task Force to amend and/revoke the Delta Protection Act. Ms. McPeak responded that she did not see a call to revoke the Act, but it should be one of the building blocks to governance, and she was inviting information on the role/relation of the Commission as there needs to be a Commission type arena for local governments to come together to be a voice in the governance process.

Roberta Goulart, Contra Costa County stated that she believes the Commission has done an outstanding job. She said that Contra Costa County was both excited and afraid of the Delta Vision. Ms. Goulart stated that unless local government was a part of the process both in planning and implementation phases, it would not be successful.

Chair Simonsen invited public comment.

Bob Whitley, Chair, Contra Costa Council Water Task Force said that he was concerned that the Delta Vision only focused on putting in a Peripheral Canal. Mr. Whitley said the Contra Costa Council Water Task Force applauds the Blue Ribbon Task Force because it has captured a comprehensive broad-based approach for the Delta and believes that the Delta Vision should have a governance structure should comprise the use of existing institutions like the Commission as well as an oversight council that would look out for the interests of the Delta. He also said that the focus now should be all about fish/fisheries, and a concentration policies, actions, and practices that will sustain a healthy environment. Mr. Whitley further stated that ecosystems, water, and Delta as a Place should be the three co-equals. Additionally, he circulated a statement of guiding principles for the Delta and said that now is the time to begin drafting the legislative actions to be submitted to the Legislature to make changes.

Peggy Bohl, Clarksburg, congratulated the Task Force on its accomplishments to date. She said the Management Plan and Act has worked well for the Delta and urged the Commission to keep their appeal authority. Ms. Bohl also stated that Delta as a Place should be a co-equal in the governance structure.

18. Receive Informational Presentation from the States Resources Agency on Bay Delta Conservation Plan and Other Delta Initiatives, Including Opportunities for Public Involvement.

Joe Grindstaff, Resources Agency, reported that the Bay Delta Conservation Plan (BDCP) is a conservation plan that has specific objectives that fish agencies and water agencies could rely on to move the system. The goal of the BDCP is to create an NCCP to restore the environment and to restore and protect certain species. Mr. Grindstaff said the most controversial aspect of the BDCP is the EIR/EIS which includes a conveyance system/Peripheral Canal concept. He also said that a preliminary report indicated that dual conveyance is the most promising and that the State is looking at specific conservation strategies for the different species and how to make those strategies happen the most effective way. He stated that some concerns include the governance structure, and looking at other stressors and how to deal with them. The objective is to have a draft conservation strategy by the end of 2008, a DEIR completed in 18 months, and the FEIR completed by June 2010. He urged the Commission to pay attention to the process as it is very comprehensive.

Mr. Grindstaff noted that DWR completed a plan for flood management in the Delta and that \$6-700 million is planned to be dedicated to the issue. Additionally, the plan will include modifications to rules on special projects and expand DWR ability to do more special projects. Mr. Grindstaff said that the Commission should be aware of the development of the policy plan and to make sure that its comments are heard.

Commissioner van Loben Sels asked if the scientific community should look at removing ammonia. Mr. Grindstaff responded that ammonia is one of a multitude of items in the Delta that the BDCP would try to address.

Commissioner Ferguson asked if DWR knew how much water should move through the Delta. Mr. Grindstaff responded that a determination has not been reached on the matter.

Commissioner Wilson asked when DWR would contact landowners whose lands would be impacted. He also asked when the process would be opened up to the public because he has asked for information but was denied. Mr. Grindstaff responded that letters would be going out to landowners and DWR would try to schedule a series of public hearings to take place after the pear harvest. Mr. Grindstaff also responded that he would raise the issue for the public to get information.

Commissioner Kelly responded that not all landowners would be contacted, only those whose lands lay in the swaths for alignment.

Commissioner Wilson asked what is the governance structure and the preferred consensus. Mr. Grindstaff responded that he did not have any specifics on the matter because DWR was still working on the objectives.

Commissioner McGowan asked if letters would be going out to landowners regarding the Peripheral Canal, and when elected officials would be notified, as he would like to comment. Commissioner Kelly responded that letters would be going out to landowners whose lands that DWR would have to gain access in order to perform surveys. Mr. Grindstaff also responded that the purpose of the letters is to set up meetings about the process.

Commissioner McGowan asked to what extent would Clarksburg be flooded and/or utilized for habitat restoration and thus not available for land use planning. He said he was concerned that the process was not involving local government or landowners on how to best improve the environment. Mr. Grindstaff responded that he did not know as the State was still laying out alternatives.

Ms. Goulart stated that she wanted to underscore local governments' frustration of not being notified of the process. She said there were a number of things that are happening right now in the Delta. She asked what other actions are moving forward. Mr. Grindstaff responded that habitat restoration, flood management ecosystem restoration, and rock for levees are a few of the activities moving forward by the State.

Commissioner Cabaldon said that the process is moving too fast. He said that local government deals with these types of issues all the time and the right choice is to always tell the constituents what is happening.

Commissioner Wilson asked who was making DWR stick with the reported timeframes. Mr. Grindstaff reported that the Governor wants to complete work before the end of his term.

Chair Simonsen stated that he felt the BDPC was to drive the Peripheral Canal. He said he would like to see representatives from the COGS and the Delta counties involved, and in a position where they have a voice because no elected official should be blindsided by the process.

19. Receive a Presentation from the South Delta Water Agency on Delta Related Issues of Concern from the Agency's Perspective.

This item was postponed.

20. Receive Input on the Draft Delta Vision Strategic Plan From Members of the Commission Serving on the Delta Vision Stakeholder Advisory Group Pursuant to the Commission's Role Under the Delta Protection Act.

Linda Fiack reported that the members of the Commission serving on the Delta Vision Stakeholder Coordination Group met to discuss preparing a letter of comment from the Commission to the Delta Vision Blue Ribbon Task Force. Ms. Fiack distributed a handout of summary notes from the meeting and asked for comments. After a short discussion, and having no quorum, the item was postponed to be discussed at a special meeting scheduled on August 14, 2008.

Commissioner Tilghman asked that a draft letter be provided for the meeting.

21. Receive Informational Presentation from Commission Staff on the Commission's Management Plan Update Process, Including Workshops Held on July 16, 2008 and July 21, 2008.

Ms. Fiack reported that the Commission has begun its Management Plan update. So far, Commission staff has conducted two kick-off workshops and will be having a series of focus meetings in the near future. Ms. Fiack noted that the meetings are public and those who cannot attend the meetings are able to submit comments through the Commission's website.

Commissioner Cabaldon commented that the update is worthwhile; however, with the BDCP and Delta Vision in progress, the timing of the update is not good. He said that in order to produce an effective document the Commission should slow down and take up the issue in a few months.

Commissioner McGowan commented that the update is imperative and he wanted to be very involved, but there is just too much going on at the present time.

Ms. Fiack said she understood and that she would meet with the consultants about ways to address the concerns.

22. Receive Informational Presentation from Commission Staff Summarizing Research on National Heritage Areas Completed at the Request of the Delta Vision, Delta as Place Work Plan Group.

Alex Westhoff, Project Management Specialist made a presentation on the research he has completed on National Heritage Areas. NHAs are places designated by the US Congress where natural, cultural, historic and recreational resources combine to form cohesive, nationally-distinctive landscapes arising from patterns of human activity shaped by geography. Mr. Westhoff said that NHAs are consistent with the Act and the Plan as a concept for the Delta.

Commissioner McGowan stated that he found NHAs to be useful in the Commission's overall planning, and it would give the Commission an opportunity to build a team with its local partners.

23. Discuss and Consider Directing Staff to Prepare a Letter from the Chair of the Commission to the Secretary for Resources and Secretary for Food and Agriculture Relative to the Participation of the Directors of the State Agencies Represented on Commission in Commission Meetings and Related Matters.

Chair Simonsen reported that AB 2503 has been signed by the Governor. The legislation takes affect January 1, 2009 and allows Commissioners to appoint alternate members from their respective elected bodies, with full voting rights.

Commissioner Cabaldon stated that sending a letter would be odd and hypocritical in light of the legislation. He also said he hoped the legislation is ultimately useless and the Commission keeps seeing the continued participation and level of leadership it already has.

Commissioner McGowan stated that he felt the role of the Commission needs to be examined because it seems to be state-appointee driven. He said he favored a more local government and land owner make up of the Commission. He suggested that the Commission look at what it needs to do, which in turn would determine who will be represented.

24. Commissioner and Staff Comments/Announcements.

Chair Simonsen asked that Commissioners fill out the Executive Director Performance Evaluation and return the form to him by the due date. He said he would compile all responses and report the outcome at the September meeting.

Commissioner Ruhstaller asked about the attendance policy for the Commission. Chair Simonsen responded that he was frustrated on the matter and would like to look into the issue of what the Commission's ability would be to get a new member from an appointing agency once a Commissioner has missed at least three meetings.

Dan Siegel responded that the issue could be looked into; however the Commission could not remove a member it could only send a letter advising the appointing agency that their representative is not attending meetings on a regular basis.

25. CLOSED SESSION

Mr. Siegel announced that there would be no need for a closed session as there was no threat of litigation filed against the Commission challenging the Old Sugar Mill Specific Plan.

Commissioner McGowan clarified that the County of Yolo is committed to working constructively with the Commission.

26. ADJOURN

The meeting was adjourned at 9:45 p.m.